

REMARKS

In the Office Action, the Examiner rejected claims 1-25. In this paper, claims 1, 9, and 14 have been amended, and claims 26 and 27 have been added. Claims 1-27 are pending in the present application and are believed to be in condition for allowance. In view of the following remarks, the Applicants respectfully request reconsideration and allowance of all pending claims.

On a preliminary note, Applicants respectfully assert that the Examiner again failed to substantively address the Applicant's previous arguments in the Office Action. Applicants remind the Examiner that in accordance with M.P.E.P. § 707.07(f), where the Applicant traverses any rejection, the Examiner should, if he or she repeats the rejection, take note of the Applicant's argument and *answer the substance of it*. Applicants are entitled to full and fair consideration of the arguments. Accordingly, while Applicants believe the present claims are in condition for allowance, in any future adverse action, Applicants request that the Examiner address the substance of the arguments set forth herein. Merely reiterating the previous rejection without addressing the failed logic of the Examiner's argument pointed out by the Applicant does not "answer the substance" of Applicant's arguments.

Because the Examiner has prevented the furtherance of prosecution by repeatedly failing to address the Applicant's arguments, Applicants officially request a telephonic interview with the Examiner's supervisor.

Claim Rejections under 35 U.S.C. § 112, First Paragraph

The Examiner rejected claims 1, 9, 13, and 14 under 35 U.S.C. § 112, first paragraph as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, have possession of the claimed invention. Applicants respectfully traverse this rejection.

Legal Precedent

First, regarding the written description requirement, the initial burden of proof regarding the sufficiency of the written description falls on the Examiner. Accordingly, the Examiner must present evidence or reasons why persons skilled in the art would not recognize a description of the claimed subject matter in the applicant's disclosure. *In re Wertheim*, 541 F.2d 257, 262, 191 U.S.P.Q. 90, 96 (CCPA 1976). The Examiner is also reminded that the written description requirement does not require the claims to recite the same terminology used in the disclosure. The patentee may be his own lexicographer. *Ellipse Corp. v. Ford Motor Co.*, 171 U.S.P.Q. 513 (7th Cir. 1971), *aff'd* 613 F.2d 775 (7th Cir. 1979), *cert. denied*, 446 U.S. 939 (1980). Moreover, any information contained in any part of the application as filed, including the specification, claims and drawings, may be added to other portions of the application without introducing new matter. Accordingly, if an application as originally filed contains a claim disclosing material not disclosed in the remainder of the specification, the applicant may amend the specification to include the claimed subject matter. *In re Benno*, 768 F.2d 1340, 226 U.S.P.Q. 683 (Fed. Cir. 1985).

Second, regarding the enablement requirement, the Examiner has the initial burden to establish a *reasonable basis* to question the enablement provided for the claimed invention. *In re Wright*, 999 F.2d 1557, 1562, 27 U.S.P.Q.2d 1510, 1513 (Fed. Cir. 1993). The test for enablement, as set forth by the Supreme Court, is whether the experimentation needed to practice the invention is undue or unreasonable? *Mineral Separation v. Hyde*, 242 U.S. 261, 270 (1916). A patent need not teach, and preferably omits, what is well known in the art. *In re Buchner*, 929 F.2d 660, 661, 18 U.S.P.Q.2d 1331, 1332 (Fed. Cir. 1991). The *undue experimentation* test essentially evaluates whether one of reasonable skill in the art can make or use the invention from the disclosures in the patent coupled with information known in the art without undue experimentation. *U.S. v. Telecommunications, Inc.*, 857 F.2d 778, 785, 8 U.S.P.Q.2d 1217, 1223 (Fed. Cir. 1988). As long as the specification discloses at least one method for making and using the claimed invention

that bears a *reasonable correlation* to the entire scope of the claim, then the enablement requirement of section 112 is satisfied. *In re Fisher*, 427 F.2d 833, 839, 166 U.S.P.Q. 18, 24 (C.C.P.A. 1970).

Deficiencies of Rejection

Embodiments of the present technique are directed to a variety of systems and methods for reproducing or emulating sound originating at a remote computer system, such as a server or network management device, to facilitate remote control of the remote computer system based on the sound. *See Application*, page 5. In other words, embodiments of the present technique allow a user to interact with, or manage, the remote computer system from an interfacing computer system with real-time audio corresponding to software and hardware events occurring on the remote computer system. *See id.* The entire application is directed to teaching systems and methods in accordance with the present technique.

Despite the clear teachings throughout the present specification, the Examiner asserted that “audibly interfacing with a computer management module disposed on a remote computer system from an interfacing computer system via a network; providing an audio interface between the interfacing computer and the computer management module; and graphically interfacing with the computer management module disposed on the remote computer system from the interfacing computer system via the network to enable user management via the computer management module,” as recited in claim 1, is not taught or enabled. *See Office Action*, page 3. Additionally, the Examiner asserted that “displaying on the interfacing computer system a graphical user interface linked with a computer management module disposed on the remote computer system to enable remote management of the remote computer system in response to the system event,” as recited in claim 9, is not taught or enabled. *See Office Action*, page 3. Specifically, the Examiner asked the following questions:

The examiner is not clear what will display on the displaying on the interfacing computer system ? How the displaying on the interfacing computer system a graphical user interface ?

Office Action, page 4.

Applicants respectfully traverse the Examiner's rejection under 35 U.S.C. § 112. First, Applicants assert that the Examiner's questions are vague and confusing. However, based on the Applicants best understanding of the questions, Applicants assert that all of the present claim recitations are clearly described and enabled for one of ordinary skill in the art by the application. For example, the specification clearly teaches that the user may remotely manage a web server via an interface that provides real-time video and audio corresponding to a management software application disposed on the web server. *See Application, page 5.* The entire application is directed to disclosing and enabling such features. In a specific example, a user may receive audio data responsive to a system event from a remote system at an interfacing system and transmit a voice command from the interfacing system to the remote system, which recognizes and processes the voice command to control management hardware and software on the server. *See Application, pages 5-6.* Additionally, the present application clearly teaches that a graphical user interface may be utilized in accordance with present techniques. *See Application page 10.*

In view of the arguments set forth above, the Examiner has failed to meet the burdens required for a rejection under 35 U.S.C. § 112. Specifically, the Examiner has provided no factual evidence or objective reasons why persons skilled in the art would not recognize a description of the claimed subject matter in the applicant's disclosure. Further, the Examiner has not established a reasonable basis to question the enablement provided for the claimed invention. For these reasons, Applicants respectfully request withdrawal of the rejections under Section 112, first paragraph.

Claim Rejections under 35 U.S.C. § 103(a)

The Examiner rejected claims 1-3, 14-16, 21-22, and 25 under 35 U.S.C. § 103(a) as being unpatentable over Todd et al. (U.S. Patent No. 5,867,714, hereinafter “the Todd reference”) in view of Fujita et al. (U.S. Publication No. 2002/0007255, hereinafter “the Fujita reference”). The Examiner rejected claims 9-11 and 23-24 under 35 U.S.C. § 103(a) as being unpatentable over Kimura et al. (U.S. Publication No. 2002/0143975, hereinafter “the Kimura reference”) in view of the Fujita reference. The Examiner rejected claims 4-6, 17, and 19-20 under 35 U.S.C. § 103(a) as being unpatentable over the Todd reference, and the Fujita reference, in further view of France et al. (U.S. Patent No. 5,734,119, hereinafter “the France reference”). The Examiner rejected claims 7-8 under 35 U.S.C. § 103(a) as being unpatentable over the Todd reference and the Fujita reference, further in view of the Kimura reference. The Examiner rejected claims 12-13 under 35 U.S.C. § 103(a) as being unpatentable over the Kimura reference and the Fujita reference, further in view of Buczek et al. (U.S. Publication No. 2002/0178295, hereinafter “the Buczek reference”). Applicants respectfully traverse these rejections.

Legal Precedent

The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (PTO Bd. App. 1979). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d. 1430 (Fed. Cir. 1990). Accordingly, to establish a *prima facie* case, the Examiner must not only show that the combination includes *all* of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 U.S.P.Q. 972 (Bd. Pat. App. & Inter. 1985).

The Examiner must provide *objective evidence*, rather than subjective belief and unknown authority, of the requisite motivation or suggestion to combine or modify the cited references. *In re Lee*, 61 U.S.P.Q.2d. 1430 (Fed. Cir. 2002). Moreover, a statement that the proposed modification would have been “*well within the ordinary skill of the art*” based on individual knowledge of the claimed elements cannot be relied upon to establish a *prima facie* case of obviousness without some *objective reason to combine* the teachings of the references. *Ex parte Levengood*, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993); *In re Kotzab*, 217 F.3d 1365, 1371, 55 U.S.P.Q.2d. 1313, 1318 (Fed. Cir. 2000); *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 U.S.P.Q.2d. 1161 (Fed. Cir. 1999).

Features of Independent Claim 1 and its Dependent Claims Omitted from Todd and Fujita

As amended, independent claim 1 recites:

A method, comprising the acts of: audibly interfacing with a computer management module disposed on a remote computer system from an interfacing computer system via a network comprising: *detecting audio settings* of the remote computer system; *transmitting the audio settings* to the interfacing computer system via a network; *configuring audio circuitry* of the interfacing computer system based on the audio settings; *transmitting audio data responsive to software or hardware events occurring on the remote computer system to the interfacing computer system*; and graphically interfacing with the *computer management module disposed on the remote computer system* from the interfacing computer system via the network *in response to the software or hardware events*.

(Emphasis added).

In contrast, Todd discloses a computer system 110 that transmits its “configuration data” to a remote data source 130, such that the remote data source 130 can identify conflicts in the configuration of the computer system 110 and transmit

software “revisions” back to the computer system 110 to fix the configuration conflicts. *See Todd*, col. 3, lines 19-33; col. 12, lines 1-8; col. 13, lines 5-15.

Applicants respectfully assert the Examiner’s previous rejection is moot in view of the current claim amendments. Nevertheless, Applicants assert that the Examiner’s previous arguments with respect to Todd were flawed. Further, Applicants reiterate previous arguments presented by the Applicants regarding Todd. Specifically, Applicants assert that the Examiner misinterpreted what is taught by Todd. Primarily, Applicants assert that Todd does not disclose transmitting and detecting “audio settings,” or configuring “audio circuitry.” Further, as discussed in the following two hypothetical scenarios, if Todd is interpreted to disclose the act of “detecting audio settings of the remote computer system,” then Todd lacks the act of “configuring audio circuitry of the interfacing computer system based on the audio settings,” recited in independent claim 1. Alternatively, if Todd is interpreted to disclose the act of “configuring audio circuitry of the interfacing computer system based on the audio settings”, then Todd lacks the act of “detecting audio settings of the remote computer system,” recited in independent claim.

Regarding the failure of Todd to disclose transmitting and detecting “audio settings,” or configuring “audio circuitry,” Applicants respectfully remind the Examiner that if the Examiner relies on a theory of inherency, the extrinsic evidence must make clear that the missing descriptive matter is *necessarily* present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 49 U.S.P.Q.2d 1949 (Fed. Cir. 1999) (Emphasis Added). The mere fact that a certain thing *may* result from a given set of circumstances is not sufficient. *Id.* In relying upon the theory of inherency, the Examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic *necessarily* flows from the teachings of the applied prior art. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original). The Examiner, in presenting the inherency argument, bears the evidentiary burden and must adequately satisfy this

burden. *See id.* Accordingly, the Examiner's mere assertion that the processing circuitry 114 of Todd is audio circuitry is insufficient to meet the Examiner's burden. *See Office Action, page 2.* Further, the Examiner has not even attempted to provide an equivalent in Todd for detecting and transmitting the "audio settings," as presently recited.

For the sake of the first hypothetical argument, if the computer system 110 in Todd is interpreted as the remote computer system in claim 1 and if the remote data source 130 in Todd is interpreted as the interfacing computer system in claim 1, then Todd is missing "configuring audio circuitry of the *interfacing computer system* based on the audio settings," as recited in claim 1. (Emphasis added). Specifically, in Todd, the remote data source 130 (hypothetically interpreted as the "interfacing computer") transmits software "revisions" back to the computer system 110 to fix the computer system's configuration conflicts, yet the remote data source 130 is not itself configured in any way. *See id.* In other words, the initial detection and subsequent revisions of configuration data are both related to the *same* computer system 110. *See id.* Thus, according to this hypothetical argument, Todd lacks the act of "configuring audio circuitry of the *interfacing* computer system based on the [detected] audio settings," of the *remote* computer system, as recited in claim 1.

Alternatively, for the sake of the second hypothetical argument, if the remote data source 130 in Todd is interpreted as the remote computer system in claim 1 and if the computer system 110 in Todd is interpreted as the interfacing computer system in claim 1, then Todd is missing "detecting audio settings of the *remote computer system*." (Emphasis added). Specifically, in Todd, the remote data source 130 (hypothetically interpreted as the "remote computer system") transmits software "revisions" back to the computer system 110 to fix the computer system's configuration conflicts, yet the audio settings of the remote data source 130 are never detected. *See id.* Again, the initial detection and subsequent revisions of configuration data are both related to the *same* computer system 110. *See id.* Thus, according to this hypothetical argument, Todd lacks the act of "detecting audio

settings of the *remote* computer system for use in configuring the *interfacing* computer system,” as recited in claim 1.

The Fujita reference does not remedy the deficiencies of Todd described above. In fact, the Examiner merely relied on the Fujita reference for its alleged teaching of “audibly interfacing with a computer management module disposed on a remote computer system from an interfacing computer system via a network; providing an audio interface between the interfacing computer and the computer management module; and graphically interfacing with the computer management module disposed on the remote computer system from the interfacing computer system via the network to enable user management via the computer management module.” *See* Office Action, pages 6-7. Accordingly, the references whether considered separately or in hypothetical combination do not include all of the recited features of claim 1 as required under 35 U.S.C. § 103.

On another note, Applicants stress that the Examiner’s rejections are vague regarding the various claim features that the Examiner asserted the Fujita reference teaches and, thus, the Applicants remind the Examiner that:

When a reference is complex or shows or describes inventions other than that claimed by the applicant, *the particular part relied on must be designated as nearly as practicable*. The pertinence of each reference, if not apparent, must be clearly explained and *each rejected claim specified*.

37 C.F.R. § 1.104(c)2 (emphasis added); see also M.P.E.P. § 707.07.

In the Office Action, it appears that the Examiner has merely subjectively summarized portions of the Fujita reference without providing any specific citations to passages in the reference relied on by the Examiner and without specifically correlating particular parts of the disclosure of the reference to elements of the present claims. Applicants believe that this is entirely inadequate to fulfill the Examiner’s obligations under 37. C.F.R. § 1.104(c)(2). As such, Applicants believe the rejection provided by the Examiner to be deficient on its face. Accordingly, if the Examiner

maintains the rejection, the Applicants request a clear identification and explanation of the features of the reference relied on, correlated to the particular features of the claim(s) rejected, be provided.

Further, Applicants respectfully assert that the Fujita reference fails to disclose the features of claim 1 the Examiner asserted it teaches. For example, Applicants see no teaching of a computer management module in the Fujita reference. Additionally, as asserted above, the Examiner certainly has not provided any correlation between the recited computer management module and any component taught in the Fujita reference. Indeed, the Examiner merely points to paragraphs 0047-0072 (i.e., some 26 paragraphs) of the Fujita reference and Figure 2 of the Fujita reference as disclosing this feature (i.e. a computer management module) without further explanation. Additionally, Applicants assert that the Fujita reference is not directed to transmitting audio data. Rather, Fujita is directed to transmission of video data. This is clear based on a reading of the paragraphs cited by the Examiner. For example, the “operator communication” function described in paragraph 0065 appears to be a text messaging type application, not an audio transmission. This is made clear by the failure of the Fujita reference to mention audio data and the fact that the Fujita reference essentially equates the “operator communication” function to email in paragraph 0065.

In view of these deficiencies, Todd and Fujita, taken alone or in hypothetical combination, cannot support a *prima facie* case of obviousness of independent claim 1 or its dependent claims. For these reasons, the Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 103 of claim 1 and the claims depending therefrom. Further, Applicants request an indication of allowance for claim 1, and claims 2, 3, 21 and 22, which depend from claim 14.

Deficiencies of Rejection of Dependent Claims 4-6

Dependent claims 4-6 depend from independent claim 1. Applicants respectfully submit that claims 4-6 are allowable based on this dependency.

Primarily, Applicants assert that the Examiner's previous rejections are moot in view of the present amendments. Further, the Examiner's previous rejections were inadequate because the France reference does not cure the deficiencies in the Todd reference, as described above. Specifically, the France reference does not disclose or suggest both "detecting audio settings of the remote computer system," and "configuring audio circuitry of the interfacing computer system based on the audio settings." For at least these reasons, claims 4-6 are believed to be allowable over the cited references taken alone or in hypothetical combination with each other.

In addition, the Examiner has not shown the requisite motivation or suggestion to modify or combine the cited references to reach the present claims. As summarized above, the Examiner must provide *objective evidence*, rather than subjective belief and unknown authority, of the requisite motivation or suggestion to combine or modify the cited references. *In re Lee*, 61 U.S.P.Q.2d. 1430 (Fed. Cir. 2002). In the present rejection, the Examiner combined the Todd and France references based on the *conclusory and subjective statement* that "it would provide a high fidelity audio transmission thus allow audio data to be reproduced exactly as originally by using wavetable data." Office Action, pages 14-15. Accordingly, Applicants challenge the Examiner to produce *objective evidence* of the requisite motivation or suggestion to combine the cited references or withdraw the rejection of claims 4-6.

Deficiencies of Rejection of Dependent Claims 7-8

Dependent claims 7-8 depend from independent claim 1. Applicants respectfully submit that claims 7-8 are allowable based on this dependency. Primarily, Applicants assert that the Examiner's previous rejections are moot in view of the present amendments. Further, the Examiner's previous rejections were inadequate because the Kimura reference does not cure the deficiencies in the Todd and Fujita references described above. Specifically, the Kimura reference does not disclose or suggest both "detecting audio settings of the remote computer system," and the act of "configuring audio circuitry of the interfacing computer system based on the audio settings," as recited in independent claim 1. For at least these reasons,

claims 7-8 are believed to be allowable over the cited references taken alone or in hypothetical combination with each other.

In addition, the Examiner has not shown the requisite motivation or suggestion to modify or combine the cited references to reach the present claims. As summarized above, the Examiner must provide *objective evidence*, rather than subjective belief and unknown authority, of the requisite motivation or suggestion to combine or modify the cited references. *In re Lee*, 61 U.S.P.Q.2d. 1430 (Fed. Cir. 2002). In the present rejection, the Examiner has attempted to combine the Todd and Fujita reference with the Kimura reference based on the *conclusory and subjective statement* that “it would provide an efficient communication system which receives and transmits information containing video and speech/audio information between server and receiving computer.” Office Action, page 18. The Applicants respectfully stress that an assertion of an alleged advantage attributable to the invention, but based an after the fact consideration, does not satisfy the requirement that the prior art must have suggested the proposed combination at the time of the invention. Accordingly, Applicants challenge the Examiner to produce *objective evidence* of the requisite motivation or suggestion to combine the cited references or withdraw the rejection of claims 7-8.

Features of Independent Claim 9 and Its Dependent Claims Omitted from Kimura and Fujita

As amended, the present independent claim 9 recites a method comprising:

detecting audio data generated at a remote computer system in response to a system event; processing and converting the audio data into standard audio data at the remote computer system; transmitting the standard audio data to an interfacing computer system via a network; interpreting and playing the standard audio data at the interfacing computer system for interaction with the system event; displaying on the interfacing computer system a graphical user interface linked with a computer management module disposed on the remote computer system to enable remote management of the remote computer system in response to the system

event; and directing the computer management module on the remote computer system to control the system event from the interfacing computer system.

In contrast, Kimura discloses a transmission terminal 100 that sends media information to a multi-media conversion server (e.g., elements 101, 103, and 107), which in turn converts the media information into a suitable format before sending it to a receiving terminal 5. Kimura, ¶ 0012 and 0043-0046. Referring to Fig. 1, Kimura discloses a distribution server 101 between the transmission terminal 100 and the receiving terminal 5. Kimura, ¶ 44. Moreover, the distribution server 101 interacts with a terminal database server 107 and a speech and video synthesis server 103. Kimura, ¶ 0045 and 0046. As discussed below, the various processes and conversions are carried out by the servers 101, 103, and 107, rather than the terminals 100 and 5.

Applicants respectfully assert the Examiner's previous rejection is moot in view of the current claim amendments. Nevertheless, Applicants assert that the Examiner's previous arguments with respect to Kimura were flawed. Indeed, as discussed in the following three hypothetical scenarios, if the transmission terminal 100 in Kimura is interpreted as the remote computer system in claim 9 and if the receiving terminal 5 in Kimura is interpreted as the interfacing computer system in claim 9, then Kimura lacks the act of "processing and converting the audio data into standard audio data *at the remote computer system*," recited in independent claim 9. Alternatively, if the transmission terminal 100 in Kimura is interpreted as the remote computer system in claim 9 and if the multi-media conversion server (e.g., 101, 103, or 107) in Kimura is interpreted as the interfacing computer system in claim 9, then Kimura lacks the act of "processing and converting the audio data into standard audio data *at the remote computer system*," recited in independent claim 9. Furthermore, if the multi-media conversion server (e.g., 101, 103, or 107) in Kimura is interpreted as the remote computer system in claim 9 and if the receiving terminal 5 in Kimura is interpreted as the interfacing computer system in claim 9, then Kimura lacks the act of

“detecting audio data generated at a *remote computer system*,” recited in independent claim 9.

For the sake of a first hypothetical argument, if the transmission terminal 100 in Kimura is interpreted as the remote computer system in claim 9 and if the receiving terminal 5 in Kimura is interpreted as the interfacing computer system in claim 9, then Kimura is missing “processing and converting the audio data into standard audio data *at the remote computer system*.” (Emphasis added). Specifically, in Kimura, conversion of the media information is performed at the multi-media conversion server (e.g., 101, 103, or 107), and not at the transmission terminal 100 (hypothetically interpreted as the “remote computer system”). *See id.* Thus, according to this first hypothetical argument, Kimura lacks the act of “processing and converting the audio data into standard audio data *at the remote computer system*,” as recited in independent claim 9.

Similarly, for the sake of a second hypothetical argument, if the transmission terminal 100 in Kimura is interpreted as the remote computer system in claim 9 and if the multi-media conversion server (e.g., 101, 103, or 107) in Kimura is interpreted as the interfacing computer system in claim 9, then Kimura is missing “processing and converting the audio data into standard audio data *at the remote computer system*.” (Emphasis added). Specifically, in Kimura, conversion of the media information is performed at the multi-media conversion server (e.g., 101, 103, or 107), and not at the transmission terminal 100 (hypothetically interpreted as the “remote computer system”). *See id.* Thus, according to this second hypothetical argument, Kimura lacks the act of “processing and converting the audio data into standard audio data *at the remote computer system*,” as recited in independent claim 9. In other words, regardless of whether the claimed “interfacing computer system” is hypothetically interpreted as the receiving terminal 5 (first hypothetical) or as the multi-media conversion server (e.g., 101, 103, or 107 – second hypothetical), the claimed “remote computer system” cannot be equated with the transmission terminal 100 to anticipate claim 9.

Finally, for the sake of a third hypothetical argument, if the multi-media conversion server (e.g., 101, 103, or 107) in Kimura is interpreted as the remote computer system in claim 9 and if the receiving terminal 5 in Kimura is interpreted as the interfacing computer system in claim 9, then Kimura is missing “detecting audio data generated at a *remote computer system*.¹” Specifically, in Kimura, the media information is generated at the transmission terminal 100 before being sent to the multi-media conversion server (e.g., 101, 103, or 107 - hypothetically interpreted as the “remote computer system”) for conversion. *See id.* Thus, the media information is not generated at the multi-media conversion server. *See id.* For these reasons, according to this third hypothetical argument, Kimura lacks the act of “detecting audio data generated at a remote computer system,” as recited in independent claim 9.

It should be clear, based on the three hypothetical scenarios discussed above, that there is no way to interpret Kimura to disclose the features of independent claim 9 that the Examiner asserted Kimura teaches. Further, Applicants assert that the Fujita reference does not remedy the deficiencies of the Kimura reference set forth above. In fact, the Examiner merely relied on the Fujita reference for its alleged teaching of “displaying on the interfacing computer system a graphical user interface linked with a computer management module disposed on the remote computer system to enable remote management of the remote computer system in response to the system event.” *See Office Action, pages 6-7.* Accordingly, the references whether considered separately or in hypothetical combination do not include all of the recited features of claim 9 as required under 35 U.S.C. § 103.

On another note, Applicants stress that the Examiner’s rejections are vague regarding the various claim features that the Examiner asserted the Fujita reference teaches and, thus, the Applicants remind the Examiner that:

When a reference is complex or shows or describes inventions other than that claimed by the applicant, *the particular part relied on must be designated as nearly as practicable.* The pertinence

of each reference, if not apparent, must be clearly explained and *each rejected claim specified.*

37 C.F.R. § 1.104(c)2 (emphasis added); see also M.P.E.P. § 707.07.

In the Office Action, it appears that the Examiner has merely subjectively summarized portions of the Fujita reference without providing any specific citations to passages in the reference relied on by the Examiner and without specifically correlating particular parts of the disclosure of the reference to elements of the present claims. Applicants believe that this is entirely inadequate to fulfill the Examiner's obligations under 37. C.F.R. § 1.104(c)(2). As such, Applicants believe the rejection provided by the Examiner to be deficient on its face. Accordingly, if the Examiner maintains the rejection, the Applicants request a clear identification and explanation of the features of the reference relied on, correlated to the particular features of the claim(s) rejected, be provided.

Further, Applicants respectfully assert that the Fujita reference fails to disclose the features of claim 9 that the Examiner asserted it teaches. For example, Applicants reiterate that there is no teaching of a computer management module in the Fujita reference. Additionally, as asserted above, the Examiner certainly has not provided any correlation between the recited computer management module and any component taught in the Fujita reference. Indeed, the Examiner merely points to some 26 consecutive paragraphs (i.e. 0047-0072) of the Fujita reference and Figure 2 of the Fujita reference as disclosing this feature without further explanation.

In view of these deficiencies, the Kimura and Fujita references, taken alone or in hypothetical combination, cannot support a *prima facie* case of obviousness of independent claim 1 or its dependent claims. For these reasons, the Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 103 of claim 9 and the claims depending therefrom. Further, Applicants request an indication of allowance for claim 1, and claims 10, 11 and 23, which depend from claim 9.

Deficiencies of Rejection of Dependent Claim 23

Dependent claim 23 depends from independent claim 9. Accordingly, Applicants believe claim 23 is allowable based on its dependence from an allowable base claim. However, Applicants specifically direct the Examiner's attention to this dependent claim because Applicants respectfully submit that it clearly includes allowable subject matter. Specifically, dependent claim 23 recites "transmitting voice command data from the interfacing computer system to the remote computer system to enable voice based control of the remote computer system."

In the Examiner's rejection of claim 23, the Examiner asserted that the Fujita reference teaches the features recited in the dependent claim, as set forth above. Specifically, the Examiner suggested that figure 2 of the Fujita reference teaches these features. *See Office Action, page 14.*

The Applicants stress that the *drawings* of the cited reference must be evaluated for what they *reasonably disclose and suggest* to one of ordinary skill in the art. *In re Aslanian*, 590 F.2d 911, 200 U.S.P.Q. 500 (C.C.P.A. 1979). Additionally, Applicants stress that according to 37 C.F.R. § 1.104 and M.P.E.P. § 707.07, the Examiner is required to provide clear explanations of all rejections.

Again, Applicants assert that the Examiner's rejection is vague and unexplained. Further, the Fujita reference clearly does not teach the features recited in claim 23. For example, figure 2 of the Fujita reference, which the Examiner relies on in the rejection, is completely devoid of anything suggesting the enablement of voice based control of a remote computer from an interfacing computer. *See Fujita, Fig. 2.* Accordingly, Applicants specifically request withdrawal of the rejection and an indication of allowance for claim 23.

Deficiencies of Rejection of Dependent Claims 12-13

Dependent claims 12 and 13 depend from independent claim 9. Applicants respectfully submit that claims 12-13 are allowable based on this dependency.

Primarily, Applicants assert that the Examiner's previous rejections are moot in view of the present amendments. Further, the Examiner's previous rejections were inadequate because Buczek does not cure the deficiencies in the Kimura and Fujita references described above. Specifically, Buczek does not disclose or suggest both "detecting audio data generated at a remote computer system," and "processing and converting the audio data into standard audio data at the remote computer system" as recited in independent claim 9. For at least these reasons, claims 12-13 are believed to be allowable over the cited references taken alone or in hypothetical combination with each other.

In addition, the Examiner has not shown the requisite motivation or suggestion to modify or combine the cited references to reach the present claims. As summarized above, the Examiner must provide *objective evidence*, rather than subjective belief and unknown authority, of the requisite motivation or suggestion to combine or modify the cited references. *In re Lee*, 61 U.S.P.Q.2d. 1430 (Fed. Cir. 2002). In the present rejection, the Examiner combined the Kimura and Fujita references with the Buczek reference based on the *conclusory and subjective statement* that "it would provide an efficient communication system for managing and operating distributed devices via the Internet." Office Action, page 20. Accordingly, Applicants challenge the Examiner to produce *objective evidence* of the requisite motivation or suggestion to have combined the cited references at the time of the present invention, or withdraw the rejection of claims 12-13.

Deficiencies of Rejection of Independent Claim 14 and Its Dependent Claims

As amended, independent claim 14 recites a system comprising:

an audio configuration analysis module adapted to identify and copy audio settings of the remote computer system; an audio configuration setup module adapted to configure audio circuitry of an interfacing computer system based on the audio settings; a computer management module disposed on the remote computer system and adapted to provide real-time interaction between the remote computer system and the interfacing computer system; a transmission module adapted to transmit audio data responsive to a system event occurring on the remote computer system to the interfacing computer system for emulation of a sound originating on the remote computer system at the interfacing computer system; and a graphical user interface adapted to link the interfacing computer system with the computer management module disposed on the remote computer system, wherein the graphical user interface includes functions to respond to the system event indicated by the sound originating on the remote computer system and emulated on the interfacing computer system.

In contrast, Todd discloses a computer system 110 that transmits its “configuration data” to a remote data source 130, such that the remote data source 130 can identify conflicts in the configuration of the computer system 110 and transmit software “revisions” back to the computer system 110 to fix the configuration conflicts. Todd, col. 3, lines 19-33; col. 12, lines 1-8; col. 13, lines 5-15.

Applicants respectfully assert the Examiner’s previous rejection is moot in view of the current claim amendments. Nevertheless, Applicants assert that the Examiner’s previous arguments with respect to the Todd and Fujita references were flawed and that both references, whether hypothetically considered together or alone, are deficient with respect to anticipation of claim 14. Specifically, the Todd reference lacks either “an audio configuration analysis module adapted to identify and copy audio settings of the remote computer system,” or “an audio configuration setup

module adapted to configure audio circuitry of an interfacing computer system based on the audio settings,” as recited in independent claim 14. Indeed, in the Todd reference, the computer system 110 transmits its configuration data, and it is the computer system’s configuration conflicts which are repaired. *See id.* Thus, in the Todd reference, the configuration data is taken from the same system (the computer system 110) that is repaired. In contrast, in claim 14, audio settings of the *remote computer system* are identified and copied, but audio circuitry of an *interfacing computer system* is configured based on the audio settings. The Todd reference, therefore, lacks one or more of the features recited in claim 14.

The Fujita reference does not remedy the deficiencies of the Todd reference described above. In fact, the Examiner merely relied on the Fujita reference for its alleged teaching of “computer management module disposed on the remote computer system and adapted to provide real-time interaction between the remote computer system and the interfacing computer system; and graphical user interface adapted to link the interfacing computer system with the computer management module disposed on the remote computer system, wherein the graphical user interface includes functions to response to a system event indicated by a sound originating on the remote computer system and emulated on the interfacing computer system.” *See Office Action, pages 6-7.* Accordingly, the references whether considered separately or in hypothetical combination do not include all of the recited features of claim 9 as required under 35 U.S.C. § 103.

On another note, Applicants stress that the Examiner’s rejections are vague regarding the various claim features that the Examiner asserted the Fujita reference teaches and, thus, the Applicants remind the Examiner that:

When a reference is complex or shows or describes inventions other than that claimed by the applicant, *the particular part relied on must be designated as nearly as practicable.* The pertinence of each reference, if not apparent, must be clearly explained and *each rejected claim specified.*

37 C.F.R. § 1.104(c)2 (emphasis added); see also M.P.E.P. § 707.07.

In the Office Action, it appears that the Examiner has merely subjectively summarized portions of the Fujita reference without providing any specific citations to passages in the reference relied on by the Examiner and without specifically correlating particular parts of the disclosure of the reference to elements of the present claims. Applicants believe that this is entirely inadequate to fulfill the Examiner's obligations under 37. C.F.R. § 1.104(c)(2). As such, Applicants believe the rejection provided by the Examiner to be deficient on its face. Accordingly, if the Examiner maintains the rejection, Applicants request that a clear identification and explanation of the features of the reference relied on, correlated to the particular features of the claim(s) rejected, be provided.

Further, Applicants respectfully assert that the Fujita reference fails to disclose the features of claim 14 that the Examiner asserted it teaches. For example, Applicants reiterate that there is no teaching of a computer management module in the Fujita reference. Additionally, as asserted above, the Examiner certainly has not provided any correlation between the recited computer management module and any component taught in the Fujita reference. Indeed, the Examiner merely points to paragraphs 0047-0072 of the Fujita reference and figure 2 of the Fujita reference as disclosing this feature without further explanation. Additionally, Applicants assert that Fujita is not directed to transmitting audio data. Rather, Fujita is directed to transmission of video data. This is clear based on a reading of the paragraphs cited by the Examiner. For example, the "operator communication" function described in paragraph 0065 appears to be a text messaging type application, not an audio transmission. This is made clear by the failure of the Fujita reference to mention audio data and the fact that the Fujita reference essentially equates the "operator communication" function to email in paragraph 0065.

In addition, the Examiner has not shown the requisite motivation or suggestion to modify or combine the cited references to reach the present claims. As summarized above, the Examiner must provide *objective evidence*, rather than subjective belief and

unknown authority, of the requisite motivation or suggestion to combine or modify the cited references. *In re Lee*, 61 U.S.P.Q.2d. 1430 (Fed. Cir. 2002). In the present rejection, the Examiner combined the Todd and Fujita references based on the *conclusory and subjective statement* that “it would have provided a remote control maintenance support system capable of collective, centralized management of maintenance work for an electronic apparatus at a remotely located center.” Office Action, pages 9-10. Accordingly, Applicants challenge the Examiner to produce *objective evidence* of the requisite motivation or suggestion to combine the cited references, or remove the foregoing rejection under 35 U.S.C. § 103.

In view of these deficiencies, the Todd and Fujita references, taken alone or in hypothetical combination, cannot support a *prima facie* case of obviousness of independent claim 14 or its dependent claims. For these reasons, the Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 103 of claim 14 and the claims depending therefrom. Further, Applicants request an indication of allowance for claim 14, and claims 15-20 and 25, which depend from claim 14.

New Claims

As set forth above, the Applicants added new claims 26 and 27. For the reasons discussed in detail above and other claim features, the Applicants believe these claims are patentable over the cited references and in condition for allowance. Therefore, the Applicants request that the Examiner allow the new claims 26 and 27.

Authorization for Extensions of Time and Payment of Fees

In accordance with 37 C.F.R. § 1.136, Applicants hereby provide a general authorization to treat this and any future reply requiring an extension of time as incorporating a request thereof. The Commissioner is authorized to charge the requisite fee of \$100 for the two additional claims, and any additional fees which may be required, to Deposit Account No. 08-2025; Order No. COMP:0271/FLE.

Conclusion

Applicants respectfully submit that all pending claims should be in condition for allowance. However, if the Examiner believes certain amendments are necessary to clarify the present claims or if the Examiner wishes to resolve any other issues by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

Date: June 29, 2006



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